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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,083	02/15/2001	David H. McDaniel	071340.0019	5784
25227 7590 05/15/2007 MORRISON & FOERSTER LLP 1650 TYSONS BOULEVARD SUITE 400 MCLEAN, VA 22102			EXAMINER FARAH, AHMED M	
			ART UNIT 3735	PAPER NUMBER
			MAIL DATE 05/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/819,083

Applicant(s)

MCDANIEL, DAVID H.

Examiner

Ahmed M. Farah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Note: Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to describe a method for treating psoriasis in such a way as to reasonably convey to one skilled in the relevant art as how to perform the treatment. The written description merely recites the term "psoriasis" only in the abstract and in page 12, line 4 (paragraph [0056] of Pub. No.: **US 2003/0060811**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 7-9 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. US Patent No. 6,436,127 in view of Doiron et al., described above.

Anderson et al. disclose a method for treating psoriasis by irradiating the affected skin with a UV light. In the Background of their invention, they further teach that the use of photoactive/photosensitizing agents during phototherapy treatment of psoriasis is well known in the art (see col. 1, lines 50-61). However, Anderson et al. fail to disclose the types of the energy sources used in the prior art. Doiron et al. disclose an alternative phototherapeutic device useful for treating skin conditions such as psoriasis and hyperbilirubinemia, the device comprising a plurality of light emitting diodes.

Therefore, at the time of the applicant's invention, it would have been obvious to one skilled in the art to modify the well known prior art described by Anderson et al. in view of Doiron et al. and use LED(s) as an equivalent alternative light source(s) to provide the treatment energy.

2. Claim 10 is again rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. in view of Doiron et al as applied to claims 7-9 above, and further in view of Tankovich et al. US Patent No. 5,817,089.

Neither Anderson et al. nor Doiron et al. teach the use of ultrasound to aide treatment of psoriasis. However, the applicant's written description teaches that the ultrasound is used to enhance of particles/agents into the tissue. Applicant's written description further recognizes that the use of ultrasonic energy to enhance penetration of particles into a tissue site is known in the art. In particular, page 15, lines 5-8 of the

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applicant's specification clearly teaches that Tankovich et al. ('089) use ultrasonic energy to enhance penetration of hair dye into the hair shaft.

Therefore, at the time of the applicant's invention, it would have been obvious to one skilled in the art to modify the well known method for treating psoriasis described by Anderson et al. in view of Doiron et al. and in further view of Tankovich et al. to use ultrasonic energy in order to enhance penetration of the photoactive agent into the tissue.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the following reference:

US Patent No. 4,558,700 to Mutzhas discloses known methods for treating psoriasis, including phototherapeutic methods (see col. 1, line 15 to col. 2, line 37).

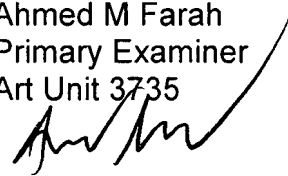
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marmor II Charles can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ahmed M Farah
Primary Examiner
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May 8, 2007.